

Exhibit 18

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants,

-and-

KARLA PEREZ, *et al.*; and STATE of NEW
JERSEY,

Defendants-Intervenors.

Case No. 1:18-cv-00068

BRIEF OF AMICI CURAIE IN SUPPORT OF DEFENDANT-INTERVENOR STATE OF
NEW JERSEY

STATEMENT OF INTEREST

Amici curiae are major companies and organizations that have significant operations in the State of New Jersey and who help drive the State's economy. Amici, and other institutions important to New Jersey's economy, employ, represent, and/or educate individuals who have been granted deferred action under Deferred Action for Childhood Arrivals ("DACA"), as well as individuals whose spouses have been granted DACA. New Jersey companies and institutions have benefitted from the skills and dedication of those people. Amici would be adversely impacted if DACA were enjoined because they would lose the contributions that these people make to their businesses and to the State's economy. Accordingly, amici submit this brief to highlight for the Court the significant harm that New Jersey businesses and the State's economy would suffer if the 22,000 New Jersey residents who have been granted DACA were no longer eligible to obtain work authorization.

A full list and description of amici are set forth in the Appendix to this brief.

PRELIMINARY STATEMENT

DACA provides a means for young immigrants to integrate themselves into society. DACA recipients are commonly referred to as the Dreamers. Despite arriving as undocumented minor immigrants, since being afforded access to education and jobs under DACA, they have flourished. The 690,000 current DACA recipients in the United States have injected billions of dollars into the nation's economy, and are contributing members of their local communities. They are now being targeted for removal by the Plaintiff States based on burdens they allegedly place on those states' coffers.

A growing body of data, however, shows that the Dreamers have actually boosted the United States economy. Under DACA, which has been in effect since 2012, Dreamers have

enrolled in schools, worked for businesses in their communities, and paid taxes to, and reinvested their incomes in, their respective States' economies. These contributions create increased demand for goods and services, and, in turn, create more jobs. The tremendous social and economic cost that would ensue if DACA were terminated and the Dreamers were suddenly deported cannot be underestimated. In New Jersey alone, enjoining DACA would force tens of thousands of taxpaying employees out of the workforce, and would result in an estimated decrease of \$1.6 billion in New Jersey's GDP each year.

The Plaintiff States claim they are entitled to injunctive relief because the federal government has stated that it will begin winding down DACA, and because DACA allegedly conflicts with Congress's authority. The Plaintiff States do not address the tremendous economic harm that would result if hundreds of thousands of Dreamers were suddenly removed from the workforce. This immediate and significant economic harm weighs heavily against the issuance of the extraordinary relief of a mandatory preliminary injunction that would impact the economies not only of the Plaintiff States, but also of New Jersey, and indeed, the entire nation.

ARGUMENT

I. ENJOINING DACA WOULD SIGNIFICANTLY HARM NEW JERSEY COMPANIES AND THE NEW JERSEY ECONOMY.

When ruling on a request for preliminary injunctive relief, a court “must balance the competing claims of injury and must consider the effect on each party of the granting or withholding of the requested relief.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008). “[A] court must also consider . . . the overall public interest.” *Trump v. Int’l Refugee Assistance Project*, 137 S. Ct. 2080, 2087 (2017) (alterations and quotation marks omitted). Mandatory preliminary injunctive relief that alters the status quo, such as the rescission of DACA that the Plaintiff States seek, “should not be issued unless the facts and law clearly favor

the moving party.” *Martinez v. Mathews*, 544 F.2d 1233, 1243 (5th Cir. 1976). In judging this issue, amici urge that the Court consider the economic harm that would result from enjoining DACA.

A. Dreamers are Vital Contributors to New Jersey Businesses

Under DACA, “certain young people who were brought to this country as children and know only this country as home” may remain in the United States and continue to live and work as productive members of society. Memorandum from Janet Napolitano, Sec’y of Homeland Sec., Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children (June 15, 2012). Dreamers “who ha[ve] been granted deferred action” under DACA can apply for work authorization upon a showing of “economic necessity for employment,” 8 C.F.R. § 274a.12(c)(14), and hundreds of thousands of legal workers have been added to the United States workforce as a result of DACA. Contrary to the Plaintiff States’ assertions, the detrimental impact of enjoining DACA is not de minimis. It “reaches beyond the geographical bounds” of any particular State and “affects every state and territory of the United States.” *Regents of the Univ. of Cal. v. U.S. Dep’t of Homeland Sec.*, 279 F. Supp. 3d 1011, 1049 (N.D. Cal. 2018). That harm includes New Jersey.

“A national survey of DACA enrollees in 2016 found that more than 40 percent of respondents secured their first job after enrollment in DACA, and more than 60 percent landed a job with better pay.”¹ DACA recipients now “work in diverse industries, including educational and health services, wholesale and retail trade, and professional and business services.”² New Jersey has the ninth highest number of DACA recipients in the nation, and one out of every 406

¹ Misha E. Hill & Meg Wiehe, Inst. on Taxation & Econ. Policy, *State & Local Tax Contributions of Young Undocumented Immigrants* (Apr. 2017), <https://itep.org/wp-content/uploads/2017DACA.pdf>.

² *Id.*

New Jersey residents is a DACA grantee.³ As of March 31, 2017, there were 22,024 DACA recipients in New Jersey, and 87% of that population is working.⁴

Terminating DACA would result in an estimated 61% of New Jersey's DACA recipients (13,435 people) losing their work eligibility status, and ultimately their jobs, by June 2019.⁵ Amici and other businesses in the State employ Dreamers, and removing those employees would harm amici's operations on an ongoing basis, forcing them to incur the substantial economic costs associated with retraining their workforces—*i.e.*, the lost time invested in employees as well as the lost institutional knowledge those employees possessed, the cost of advertising jobs and interviewing applicants, and the lost revenue associated with the lower productivity of new hires.⁶ *See, e.g., Regents of Univ. of California*, 279 F. Supp. 3d at 1034 (the resources that employers invest in “recruiting and retaining DACA recipients as employees” would be lost if those employees could no longer work in the United States); *Batalla Vidal v. Nielsen*, 279 F. Supp. 3d 401, 434 (E.D.N.Y. 2018) (finding that employers would suffer if DACA were rescinded “due to the inability to hire or retain erstwhile DACA recipients, affecting their operations on an ongoing basis and causing them to incur unrecoverable economic losses.”).

³ Erika J. Nava, *Fast Facts: DACA Directive Dims the Future of Thousands of Young New Jersey Immigrants*, New Jersey Policy Perspective (Sept. 19, 2017), <https://www.njpp.org/reports/fast-facts-daca-directive-dims-the-future-of-thousands-of-young-new-jersey-immigrants>; Michael Symons, *How Many NJ Residents Would be Hurt by End to DACA?* New Jersey 101.5 (Sept. 5, 2017), <http://nj1015.com/how-many-nj-residents-would-be-hurt-by-end-to-daca/>.

⁴ Nicole P. Svajlenka et al., *A New Threat to DACA Could Cost States Billions of Dollars*, Ctr. for Am. Progress (July 21, 2017, 10:05 AM), <https://www.americanprogress.org/issues/immigration/news/2017/07/21/436419/new-threat-daca-cost-states-billions-dollars/>; Nava, *Fast Facts: DACA Directive*, *supra* note 3.

⁵ Jocelyn Mosman, Walter Rand Inst. for Pub. Affairs, *What the End of DACA Means for New Jersey* (Dec. 2017), <https://rand.camden.rutgers.edu/files/What-the-End-of-DACA-Means-for-New-Jersey.pdf>.

⁶ Esther Yu Hsi Lee, *Meet Pamela, a Soon-to-be Undocumented Immigrant Fighting to Stay and Contribute to the U.S.*, Think Progress (Nov. 17, 2017 12:40 PM), <https://thinkprogress.org/pamela-chomba-daca-expiration-8f1590291c34/>; David Bier, *Rescinding DACA, the Dream Act, Would Impose Massive Costs on Employers*, Newsweek (Sept. 5, 2017, 1:18 PM), <http://www.newsweek.com/rescinding-dreamers-act-would-impose-massive-costs-employers-659813>.

“By some predictions, New Jersey would . . . experience decline in industries, such as finance, agriculture, retail, professional services, hospitality, and manufacturing” if DACA were terminated.⁷

Terminating DACA and returning the Dreamers to undocumented status represents “an unequivocal and extreme barrier to the well-being and mental health of current DACA recipients and their families.”⁸ Amici owe their employees an obligation to promote stability in the work environment. Studies have found that the threat of deportation contributes to increased anxiety and depression, both for those subject to deportation, and for their loved ones.⁹ These stressors, in addition to harming the individuals themselves, lead to decreased productivity and job performance in the workplace,¹⁰ which would harm amici.

B. Enjoining DACA Would Deplete New Jersey’s Workforce

Terminating DACA would prevent future generations of qualified employees from being trained by New Jersey’s institutions of higher education, and from entering New Jersey’s workforce. Approximately 690,000 of the 1.3 million Dreamers who are eligible for DACA are current grantees.¹¹ New Jersey alone has approximately 53,000 DACA-eligible residents,¹² and

⁷ Mosman, *supra* note 5.

⁸ Press Release, New Jersey Counseling Association (Oct. 10, 2017), <https://www.njcounseling.org/index.php/legislative-news/national-news/171-the-new-jersey-counseling-association-welcomes-daca-recipients-with-open-arms-and-hearts-and-urges-dhs-to-rescind-its-phase-out-of-the-daca-program-and-urges-congress-and-the-president-to-enact-the-dream-act-before-march-5-2018>.

⁹ Mallory Locklear, *Immigrant Protections Have Halved Kids’ Mental Health Problems*, NewsScientist (Aug. 31, 2017) (noting the disparity in anxiety disorders between children whose parents are DACA eligible, and those who are not), <https://www.newscientist.com/article/2145955-immigrant-protections-have-halved-kids-mental-health-problems/>.

¹⁰ *Mental Health in the Workplace*, World Health Organization (Sept. 2017), http://www.who.int/mental_health/in_the_workplace/en/.

¹¹ *Deferred Action for Childhood Arrivals (DACA) Data Tools*, Migration Policy Institute (last visited July 20, 2018), <https://www.migrationpolicy.org/programs/data-hub/deferred-action-childhood-arrivals-daca-profiles>; U.S. Citizenship & Immigration Servs., *Approximate Active DACA Recipients: Country of Birth* (Sept. 4, 2017),

just over 22,000 of them have received DACA. Of those 22,000 recipients, 13% (2,860 people) are not yet working.¹³

“DACA has eased many of the burdens that undocumented students face in higher education—from gaining access to in-state tuition in many states, to being able to work legally for higher wages, to added job security after graduation.”¹⁴ *See, e.g.*, N.J. Stat. Ann. 18A:62-4.4; N.J. Stat. Ann. 18A:71B-2.1. “Many New Jersey DACA recipients are going to college, attending classes at Montclair State University, the New Jersey Institute of Technology, William Paterson University and Rutgers University They are working toward degrees in science, teaching, computer science and medicine.”¹⁵ Terminating DACA would eliminate recipients’ ability to work to finance their schooling, thus preventing some of those individuals from completing their educations. This loss would ultimately shrink the labor pool by preventing the Dreamers from becoming part of the next generation of qualified employees.

Further, enjoining DACA, and making New Jersey (and the nation) less hospitable to those who are ready and willing to contribute to the economy, threatens New Jersey’s economic growth.¹⁶ Immigrants moving into New Jersey—including those who are eligible for DACA—

https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/All%20Form%20Types/DACA/daca_population_data.pdf.

¹² Migration Policy Institute, *National and State Estimates of Populations Eligible for Deferred Action for Childhood Arrivals (DACA) Program, 2016*, <https://www.migrationpolicy.org/sites/default/files/datahub/State-County-DACA-Estimates.xlsx>.

¹³ *See* Svajlenka et al., *supra* note 4; Nava, *Fast Facts: DACA Directive*, *supra* note 3.

¹⁴ Sanam Malik, *DACA Helps Undocumented Students Access Higher Education*, Center for Am. Progress (Apr. 7, 2015, 12:29 PM), <https://www.americanprogress.org/issues/immigration/news/2015/04/07/110558/daca-helps-undocumented-students-access-higher-education/>.

¹⁵ Monsy Alvarado, *DACA Program: How the Repeal Affects New Jersey*, northjersy.com (Sept. 5, 2017, 6:36 PM), <https://www.northjersey.com/story/news/nation/2017/09/05/daca-program-how-repeal-affects-new-jersey/635263001/>.

¹⁶ *See* U.S. Dep’t of Labor, Bureau of Labor Statistics, *Local Area Unemployment Statistics* (last visited July 21, 2018) (noting the diminishing size of New Jersey’s workforce),

have bolstered the State's population, and have filled jobs that would otherwise be left vacant in the State's economy. As one report notes, "New Jersey residents are fleeing the state in droves, but the loss is primarily being offset by a continued influx of immigrants from other countries, without which the state's population would be declining precipitously."¹⁷ "Between 2013 and 2014, New Jersey lost at least 55,000 residents who left for other states But in the same span, more than 51,000 people have moved to the Garden State from other countries, at the same time reshaping the state's population and stabilizing its slow growth."¹⁸

Amici and other businesses depend upon a qualified and available labor pool in the State of New Jersey. They will be harmed if the pool of qualified workers is restricted, leaving them unable to find sufficient numbers of persons to fill positions to operate their businesses.

C. Enjoining DACA Would Harm New Jersey's Economy

Enjoining DACA would stunt New Jersey's economy by eliminating important sources of revenue for the State. DACA recipients "contribute tax dollars to communities that help pay for schools, public infrastructure, and other services."¹⁹ DACA eligible workers contribute approximately \$66 million in state and local taxes to New Jersey each year—the seventh highest amount for all states.²⁰ If DACA were eliminated, New Jersey would lose an estimated \$21

https://data.bls.gov/timeseries/LASST340000000000006?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true.

¹⁷ Stephen Stirling, *Immigrants Filling the Void as Resident Flee N.J. by the Tens of Thousands*, NJ.com (Mar. 27, 2015), https://www.nj.com/news/index.ssf/2015/03/as_tens_of_thousands_flee_nj_immigrants_are_filling_the_void.html.

¹⁸ *Id.*

¹⁹ *State & Local Tax Contributions of Young Undocumented Immigrants*, Inst. of Taxation & Econ. Policy (Apr. 2018), <https://itep.org/state-local-tax-contributions-of-young-undocumented-immigrants/>.

²⁰ Erika J. Nava, *DACA-Eligible New Jerseyans Pay \$66 Million a Year in Taxes*, N.L. Policy Perspective (Apr. 25, 2017), <https://www.njpp.org/blog/daca-eligible-new-jerseyans-pay-66-million-a-year-in-statelocal-taxes..>

million of its annual tax revenue.²¹ This would harm the economic climate of New Jersey and adversely impact amici. *See, e.g., Regents of Univ. of California*, 279 F. Supp. 3d at 1049 (noting “the widespread harm to [the states] and our economy that would result [if] . . . DACA enrollees . . . los[t] their ability to work in this country.”); *Batalla Vidal*, 279 F. Supp. 3d at 435-36 (recognizing the “‘staggering’ adverse economic impacts” of rescinding DACA, including “\$797 million in lost state and local tax revenue.”).

Craig Silliman, Verizon’s Executive Vice President for Public Policy and General Counsel has publicly noted the importance of Dreamers in Verizon’s work force:

At Verizon we have benefited immeasurably from the diverse experiences, talents and work ethic of our many immigrant employees.... The Dreamers are a truly valuable resource for our economy and our society.... At a time when we are fighting to ensure that the US economy remains strong on the global stage, it is vital that we not lose the advantage of the Dreamers with their energy, diverse experience and backgrounds. This is exactly the type of diverse talent that has made the United States successful to date and on which our success will depend in the future.²²

Removing Dreamers from New Jersey would also slow job growth. Because DACA recipients are eligible to work and receive regular income, they are able to reinvest a portion of that money in New Jersey’s economy, fueling demand for goods and services, and creating new jobs. “Without a steady supply of paying customers, [positions in the service sector]—in fields like retail, hospitality, and medicine—would struggle or cease to exist.”²³ The spending power of

²¹ *Id.*

²² Craig Silliman, *Verizon Communications: Let's find ways to preserve DACA* (Aug. 31, 2017), <http://www.4-traders.com/VERIZON-COMMUNICATIONS-4830/news/Verizon-Communications-Let-s-find-ways-to-preserve-DACA-25039084/>.

²³ *Examining the Contributions of the DACA-Eligible Population in Key States*, New Am. Econ. Research Fund (Nov. 6, 2017), <http://research.newamericaneconomy.org/report/examining-the-contributions-ofthe-daca-eligible-population-in-key-states/>.

DACA eligible individuals in New Jersey was estimated at \$679 million in 2015.²⁴ The total estimated GDP loss that would result from removing DACA workers in New Jersey is \$1.6 billion, the fifth highest dollar loss of all states.²⁵ The seven Plaintiff States, by comparison, would stand to collectively lose \$7.2 billion “annually in state GDP if they get their wish” and DACA is terminated.²⁶

CONCLUSION

For the foregoing reasons, *amici* respectfully request that the Court deny the Plaintiff States’ motion for a preliminary injunction.

Respectfully submitted,

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²⁴ *Id.*

²⁵ Erika J. Nava, *Fast Facts: Dream Act Would Help Many Young New Jersey Immigrants & Boost the Economy*, New Jersey Policy Perspective (Dec. 14, 2017), <https://www.njpp.org/reports/fast-facts-dream-act-would-help-many-young-new-jersey-immigrants-boost-the-economy>.

²⁶ Svajlenka et al., *supra* note 4.

APPENDIX

List of *Amici Curiae*

Audible, Inc.

Bristol-Myers Squibb Company

Montclair State University

New Jersey Business & Industry Association

New Jersey State Chamber of Commerce

Prudential Financial, Inc.

Sanofi US Services Inc.

Verizon Communications Inc.